

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

Charlee Lang, et al.,)	
)	
Plaintiffs,)	
)	Case No. 3:23-cv-19
vs.)	
)	ORDER
Oak Grove Lutheran School, through its Board)	
of Regents, et al.,)	
)	
Defendants.)	

Plaintiffs Charlee Lang and Gregory Lang, on behalf of his daughter J.L., move for clarification of the Court’s November 17, 2023 order granting Defendants Oak Grove Lutheran School, Michael Slette, Brent Wolf, Aimee Zachirson, and Daniel Stoa’s motions to dismiss. Doc. 48. Plaintiffs request clarification because the Court dismissed their amended complaint without prejudice, which permits them to refile, but denied them leave to submit a second amended complaint. Doc. 50. Defendants responded with their own motions. They request the Court modify the judgment so that Plaintiffs’ amended complaint is dismissed with prejudice. Doc. 51; Doc. 53.

“A district court, in its discretion, may dismiss a pleading for failure to state a claim with or without prejudice.” Paisley Park Enterprises, Inc. v. Boxill, 361 F. Supp. 3d 869, 880 (D. Minn. 2019). Plaintiffs requested leave to amend their complaint as an alternative to dismissal in the final sentence of their responsive brief, (Doc. 41, p. 22), and leave to amend “shall be given freely when justice so requires.” Fed. R. Civ. P. 15(a). But “[l]eave to amend generally is inappropriate,” when a plaintiff “has not indicated how [they] would make the complaint viable, either by submitting a proposed amendment or indicating somewhere in [their] court filings what an amended complaint would have contained.” Pet Quarters, Inc. v. Depository Tr. & Clearing Corp., 559 F.3d 772, 782

(8th Cir. 2009); see also Meehan v. United Consumers Club Franchising Corp., 312 F.3d 909, 914 (8th Cir. 2002) (finding no error where the plaintiff did not specify the proposed amendments.).

Plaintiffs already amended their complaint in response to Defendants' first motions to dismiss, (Doc. 28), and, in response to Defendants' second motions to dismiss, offered no preview of their proposed second amended complaint. In its discretion, the Court chose to dismiss the amended complaint without prejudice. For those reasons, Plaintiffs' motion for clarification (Doc. 50) and Defendants' motions to amend the judgment (Doc. 51; Doc. 53) are **DENIED**.

IT IS SO ORDERED.

Dated this 2nd day of January, 2024.

/s/ Peter D. Welte
Peter D. Welte, Chief Judge
United States District Court